

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Ortiz Analyst: Kimberly Pantoja Bill Number: SB 549

Related Bills: See Prior Analysis Telephone: 845-4786 Amended Date: 05/06/99

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer Child Care Credit/50% Of Costs for Facilities Serving Low-Income Children/Bank Loans Credit

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 12, 1999.
- ☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE ALL THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 12, 1999.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED February 19, 1999 AND AS AMENDED April 12, 1999 STILL APPLY.
- ☐ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would expand the Employer Child Care Program Credit to allow any taxpayer who pays costs for a child care program or facility that serves at least 40% low-income children to claim the credit. This bill also would increase the credit percentage from 30% to 50% for a facility registering at least 51% of low-income children. This bill also would increase the maximum carryover amount for the Employer Child Care Program Credit to \$150,000 and allow the credit to reduce regular tax below tentative minimum tax (TMT) for purposes of alternative minimum tax calculation.

Under the B&CTL, this bill also would allow a credit equal to 50% of the difference between the interest income actually received on specified loans relating to financing qualified child care and development facilities and the amount of interest income that would have been received had the loan been made at one point above the prime rate.

These provisions will be discussed separately.

SUMMARY OF AMENDMENT

The May 6, 1999, amendments resolved a policy concern regarding a repeal date identified in the department's analysis of the bill as introduced. It also resolved the department's implementation concerns regarding the credit for interest income on child care and development facilities by accepting the amendments suggested in the department's analysis of the bill as amended April 12, 1999.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **5/24/1999**

The amendments also reduced the credit percentage from 70% to 50% for a facility registering at least 51% of children from low-income households and added a reporting requirement for the Franchise Tax Board (FTB) to identify the total amount of tax credits claimed by this bill's provisions.

Except for a new revenue estimate, the remainder of the department's analyses of the bill as introduced February 19, 1999, and as amended April 12, 1999, still apply. The implementation and technical considerations that still apply have been included, as well as the amendments necessary to resolve some of these concerns.

1. EMPLOYER CHILD CARE PROGRAM CREDIT

Implementation Considerations

The following implementation concerns have been identified and department staff is working with the author's office to resolve these issues.

The section this bill is amending is currently a credit for employers or building owners, and the added provisions are for non-employers or non-building owners; however, all employer and owner restrictions still apply. Furthermore, the carryover provisions have been increased and would apply to employers or building owners currently claiming the credit as well as the taxpayers added by this bill. If the author wants to expand the credit, it would probably be better to draft a new low-income child care section and allow taxpayers to take either credit.

The provision allowing a 50% credit to be substituted for 30% is worded somewhat ambiguously and needs clarification that the **facility shall provide** certification to the taxpayer that the facility did register and serve children primarily from households with incomes below 75% of the local median income in the minimum requisite percentages that satisfy the "on average" requirement in the statute and that the **taxpayer shall retain** that certification. Also, this provision requires at least 51% of the children to be from low-income households and then uses the term "primarily." Amendments 3 and 9 would clarify the certification requirement and eliminate the inconsistent wording. Amendments 5 and 11 would strike redundant language requiring the taxpayer to submit certification for the credit to the Franchise Tax Board, since existing law contains this requirement.

Existing law limits the credit to \$50,000, while the bill allows \$150,000 of any excess to be carried over. However, since the credit already has been limited to \$50,000, \$150,000 of excess could not exist to be carried over. It would appear that the author intends \$200,000 of credit to be allowed, but only \$50,000 to be used in any given year. This language needs clarification.

This bill would require the program or facility to be licensed. However, this requirement is unclear since the individual child care operators, rather than the program or facility, receive licensing.

Technical Considerations

The tentative minimum tax provisions should specify that the credit is relating to child care "programs or facilities." Amendments 1 and 7 have been provided for clarification.

Amendments 2, 4, 8 and 10 have been provided to make clarifying grammar changes.

Amendments 6 and 12 have been provided to renumber the paragraphs impacted by striking the redundant language.

Tax Revenue Discussion

Revenue losses under the PITL and the B&CTL will depend on qualified expenses and contributions for child care programs or constructing a child care facility (including lenders providing qualified loans) and the ability to apply credits against available tax liabilities.

The May 6, 1999, amendments would decrease revenue losses on the order of \$250,000 from the prior analysis of the bill as amended April 12, 1999, due to the reduction of the credit percentage from 70% to 50% for a facility registering at least 51% of children from low-income households. Revenue losses would be approximately \$750,000 annually.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

2. CREDIT FOR INTEREST INCOME ON CHILD CARE AND DEVELOPMENT FACILITIES

Technical Consideration

This provision refers to banks and financial corporations as qualifying for this credit, but then the section later goes on to refer to "taxpayer." Amendment 13 has been provided for consistency and clarification.

LEGISLATIVELY MANDATED REPORTS

The FTB would be required to report, upon the request of an Assembly or Senate Committee, the total amount of tax credits claimed under this bill, and the number, type and income level of the taxpayers. For corporate taxpayers, the FTB also would provide their industry classifications.

BOARD POSITION

Neutral.

At its March 23, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill.

Analyst Kimberly Pantoja
Telephone # 845-4786
Attorney Patrick Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 549
As Amended May 6, 1999

AMENDMENT 1

On page 3, line 28, after "child care" insert:

programs or facilities

AMENDMENT 2

On page 6, strikeout lines 28 and 29 and insert:

taxpayer, other than the provider or owner, on or after January 1, 2000, for
startup expenses of establishing a

AMENDMENT 3

On page 7, strikeout lines 23 to 25 and insert:

taxpayer pursuant to this section shall provide certification to that taxpayer
that the facility did register and serve children at least 51 percent of which
were from

AMENDMENT 4

On page 7, strikeout lines 28 and 29, and insert:

paragraph (1), on average, for the taxable year in which the credit is allowed.

AMENDMENT 5

On page 7, strikeout lines 30 through 33, inclusive.

AMENDMENT 6

On page 7, line 34, strikeout "(4)" and insert:

AMENDMENT 7

On page 11, line 32, after "child care" insert:
programs or facilities

AMENDMENT 8

On page 14, strikeout lines 11 and 12 and insert:
taxpayer, other than the provider or owner, on or after January 1, 2000, for
startup expenses of establishing a

AMENDMENT 9

On page 15, strikeout lines 5 to 7 and insert:
taxpayer pursuant to this section shall provide certification to that taxpayer
that the facility did register and serve children at least 51 percent of which
were from

AMENDMENT 10

On page 15, strikeout lines 10 and 11, and insert:
paragraph (1), on average, for the income year in which the credit is allowed.

AMENDMENT 11

On page 15, strikeout lines 12 through 15, inclusive.

AMENDMENT 12

On page 15, line 16, strikeout "(4)" and insert:
(3)

AMENDMENT 13

On page 18, line 6, strikeout "taxpayer's" and insert:
bank or financial corporation's